

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Phillip A. Giordano,

Plaintiff,

vs.

United States of America, Corrections
Officer Roberts, Corrections Officer
Davis, Corrections Officer Farmer, Lt.
Davis, Nurse Brock, Corrections Officer
Graham,

Defendants.

C/A No. 6:22-cv-00796-JFA-KFM

ORDER

Plaintiff Philip A. Giordano (“Plaintiff”), a self-represented prisoner, moves this court for a retroactively applied extension of time to amend his amended complaint. (ECF No. 23). Plaintiff requests an extension to amend his complaint per the Magistrate Judge’s order on May 18, 2022. (ECF No. 16). In that order, Plaintiff was informed that if he failed to file an amended complaint or cure the deficiencies outlined in the order, the undersigned would recommend that his claims be dismissed. *Id.* Plaintiff was given a deadline of June 1, 2022, to amend the amended complaint or otherwise respond. *Id.* Plaintiff alleges that he was unable to amend his complaint due to a COVID-19 related shutdown of the prison facility where he is housed. (ECF No. 23). As a result, he did not have access to his legal materials and was unable to comply with the deadlines set forth in the order. *Id.*¹

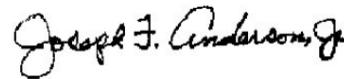
¹ Plaintiff also contends that he did not receive the Magistrate Judge’s order until after June 1, 2022, the date he was required to respond. (ECF No. 23).

The Magistrate Judge issued a Report and Recommendation (“Report”) on June 10, 2022, finding that the Plaintiff failed to file a second amended complaint within the time provided and this action was thus subject to dismissal pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (ECF No. 20). Objections to the Report were required by June 24, 2022. *Id.* On June 21, 2022, Plaintiff filed the motion for an extension of time to amend his amended complaint. (ECF No. 23). In the motion, Plaintiff requested 30 days (or until July 15, 2022) to file an amended complaint. *Id.* Given that the prison facility where Plaintiff is housed was under a lockdown for COVID-19 protocols and he was unable to access his legal materials, Plaintiff has shown good cause for the extension request.

The Court declines to adopt the Report and directs this matter back to the Magistrate Judge for further proceedings. Plaintiff will have 30 days from the date of this order to amend his amended complaint.

IT IS SO ORDERED.

June 29, 2022
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge